

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

MITSUI SUMITOMO INS. CO., LTD.,)
)
Plaintiff,)
)
v.) Case No. 08 CV 5700
)
ROADWAY EXPRESS, INC., et al.,)
)
Defendants.)

MOTION TO DISMISS OF DEFENDANT ROADWAY EXPRESS, INC.

Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, defendant Roadway Express, Inc. ("Roadway") moves this Court to dismiss all causes of action against Roadway in Plaintiff's Complaint because they are preempted by the Carmack Amendment to the Interstate Commerce Act, 49 U.S.C. § 14706. No matters outside the pleadings are presented or are necessary in connection with this motion. A brief in support of this motion is filed concurrently and is incorporated herein

Respectfully submitted,

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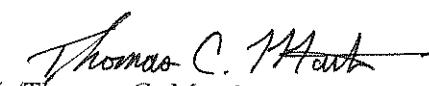
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing has been served via mail and ECF/CM this 28th day of July, 2007, upon:

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